

The Honorable Barbara J. Rothstein

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JULIAN LIU,

Plaintiff,

v.

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY, *et al.*,

Defendants.

Civil Action No. 2:18-1862-BJR

**ORDER GRANTING MOTION TO  
PHASE TRIAL OF PLAINTIFF’S  
CONTRACTUAL AND EXTRA-  
CONTRACTUAL CLAIMS**

**I. INTRODUCTION**

This matter comes before the Court on Defendant State Farm Mutual Automobile Insurance Company’s (“State Farm”) Motion to Phase the Trial of Plaintiff’s Contractual and Extra-Contractual Claims. Dkt. No. 63. Plaintiff Julian Liu opposes the motion. Dkt. No. 77. Having reviewed the motion, opposition thereto, the record of this case, and the relevant legal authorities, the Court will grant the motion. The reasoning for the Court’s decision follows.

**II. BACKGROUND**

On November 18, 2015, Mr. Liu was hit by a vehicle as he was putting garbage containers along the curb in front of his house. Dkt. No. 1, Ex. 2 at ¶ 4.2. The driver of the vehicle was uninsured. *Id.* At the time of the accident, Mr. Liu was insured by State Farm and his policy contained coverage for uninsured motorists (“UIM”). *Id.* at ¶ 4.4. State Farm concedes liability

1 under the UIM policy but disputes the extent and value of Mr. Liu's alleged injuries and damages.  
2 *See* Dkt. No. 63.

3 Mr. Liu filed suit against State Farm in King County Superior Court for the State of  
4 Washington, seeking to recover the UIM contractual limit of his insurance policy (the  
5 "contractual claim") and asserting claims for negligence, bad faith, and violations of the  
6 Washington Consumer Protection Act and the Insurance Fair Conduct Act ("IFCA") with respect  
7 to State Farm's investigation, handling, and evaluation of his claim for the UIM benefits (the  
8 "extra-contractual claims"). *See generally* Dkt. No. 1, Ex. 2. State Farm timely removed the  
9 action to this Court. Dkt. No. 1. State Farm then requested that this Court bifurcate Plaintiff's  
10 contractual and extra-contractual claims and stay discovery as to the extra-contractual claims.  
11 Dkt. No. 17. Through a series of Minute Orders, the Court ultimately denied State Farm's motion  
12 to bifurcate and stay discovery but indicated that it would consider trying the case "in two phases  
13 before the same jury". *See* Dkt. Nos. 24, 29, 33, 36, and 39. State Farm's motion to phase the trial  
14 is now before the Court. Dkt. No. 63.

### 17 III. DISCUSSION

18 Federal Rule of Civil Procedure 42(b) provides that "[f]or convenience, to avoid  
19 prejudice, or to expedite and economize, the court may order a separate trial of one or more  
20 separate issues ...." The Rule "confers broad discretion upon the court", *Hangerter v. Provident*  
21 *Life and Acc. Ins. Co.*, 373 F.3d 998, 1021 (9th Cir. 2004), and "[o]nly on of these criteria need be  
22 met to justify bifurcation", *Johnson v. State Farm Mut. Auto. Ins. Co.*, 2016 U.S. Dist. LEXIS  
23 16458, at \*2 (W.D. Wash. Feb. 10, 2016). A decision ordering that a trial be bifurcated is  
24 dependent on the facts and circumstances of each case. *Id.* (citing *Idzajt v. Pennsylvania Rr.*  
25 *Co.*, 456 F.2d 1228 (3rd Cir. 1972).  
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1 State Farm contends that it will be prejudiced if Mr. Liu's contractual and extra-  
2 contractual claims are tried together because it "cannot simultaneously wear the mantels of UIM  
3 adversary and good-faith insurer in the same proceeding" without confusing the jury. Dkt. No. 63  
4 at 4. According to State Farm, it will suffer significant prejudice if it "has to simultaneously  
5 persuade a jury that Mr. Liu's claimed injuries were not proximately caused by the accident and  
6 thus the value of the UIM claim is far less than his policy limit, while at the same time fending off  
7 testimony and arguments that it breached its legal duties in handling his claim for benefits." *Id.* at  
8 6.

10 Mr. Liu fails to address this issue. Instead, Mr. Liu primarily opposes phasing the trial  
11 because doing so will result in "doubl[e]" the work for the parties. Dkt. No. 77 at 8. He argues  
12 that there will be significant overlap between the witnesses and exhibits necessary for both  
13 phases. The Court disagrees. The contractual and extra-contractual claims are distinct and require  
14 different evidence. For instance, testimony from Mr. Liu's medical providers and medical experts  
15 is relevant only to his contractual claims, while testimony related to State Farm's handling of Mr.  
16 Liu's claim is relevant only to his extra-contractual claims. Indeed, Mr. Liu may be the only cross  
17 over witness between the two trial phases. And while the parties will have to submit two sets of  
18 exhibits, those exhibits will be unique to each phase of the trial. Exhibits for the contractual  
19 claims will involve medical records, bills, wage loss documentation, and photographs; Exhibits  
20 for the extra-contractual claims will primarily consist of State Farm's claim file. Thus, this Court  
21 finds that conducting this trial in two phases is unlikely to significantly increase each parties'  
22 workload.  
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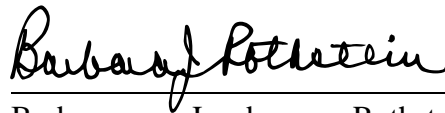
25 On the other hand, forcing State Farm to simultaneously defend against Mr. Liu's  
26 contractual and extra-contractual claims will be prejudicial to the insurance company because  
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there is a substantial risk that the jury will not be able to properly differentiate between State Farm's competing roles. *See e.g. Johnson v. State Farm Mut. Auto Ins. Co.*, 2016 U.S. Dist. LEXIS 16458, at \*2 (W.D. Wash. Fed. 10, 2016) (ordering bifurcation because there is a "risk of prejudice[e]" if first-party insurance claims "are tried with the bad faith and IFCA claims"); *Lear v. IDS Prop. Casualty Ins. Co.*, 2016 U.S. Dist. LEXIS 4370, \*3 (W.D. Wash. Jan. 12, 2016) (conducting trial in two phases: the uninsured motorist claim and the extra-contractual claims); *DeVore v. Allstate Prop. & Cas. Ins. Co.*, 2014 U.S. Dist. LEXIS 176299, \*3 (W.D. Wash. Dec. 22, 2014) (ordering bifurcation because "Allstate has shown that there exists a substantial risk that the jury could either be confused by the combined evidence and claims or be improperly influenced by the liability evidence when considering whether Allstate acted in good faith"); *Smith v. State Farm Mut. Auto. Ins. Co.*, 2013 WL 1499265, \*10 (W.D. Wash. April 11, 2013) (noting that "insurance cases involving both contract and bad-faith claims are often bifurcated" to avoid potential prejudice to the insurer). Thus, trying this case in two phases is warranted.

#### IV. CONCLUSION

For the foregoing reasons, the Court HEREBY GRANTS State Farm's Motion to Phase the Trial of Plaintiff's Contractual and Extra-Contractual Claims.

Dated this 3rd day of December 2020.

  
 Barbara Jacobs Rothstein  
 U.S. District Court Judge